

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

---

BRIAN ALLEN,

Plaintiffs,

v.

Civil Action No.

RICHARD JAMES SIMMONS, JR.,  
JHT HOLDINGS, INC. and/or  
UNIMARK TRUCK TRANSPORT, LLC,

Defendants.

---

**NOTICE OF REMOVAL**

---

TO THE HONORABLE JUDGES IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF TENNESSEE:

COME NOW the Defendants, Robert James Simmons, Jr. (incorrectly named “Richard James Simmons, Jr.” in the style of this case,) JHT Holdings, Inc., and Unimark Truck Transport, LLC and respectfully aver as follows:

1. On July 20, 2017 Plaintiff commenced a civil action against Defendants in the Circuit Court for Shelby County, Tennessee. Copies of Plaintiff’s Complaint and Summonses are attached hereto collectively as **Exhibit A**.

2. The Complaint, being the original process in this case, was first received by Defendant, Robert James Simmons, Jr, on August 2, 2017; by Defendant, JHT Holdings, on August 2, 2017; and by Defendant, Unimark Truck Transport., on August 2, 2017.

3. This personal-injury lawsuit arises out of an automobile accident alleged to have occurred in Shelby County, Tennessee. See **Ex. A**, Compl. ¶¶ 3.

4. Plaintiff Brian Allen seeks damages in an amount exceeding the sum or value of \$75,000.00. See **Ex. A**, Compl. at 7, ¶ 13.

5. At all times material hereto, Plaintiff was and as a resident of the State of Tennessee. See **Ex. A**, Compl. ¶ 1.

6. At all times material hereto, Defendant, Robert James Simmons, Jr., was and is a citizen and resident of the State of North Carolina. See **Ex. A**, Compl. ¶ 2.

7. At all times material hereto, Defendant, JHT Holdings, Inc., was and is a corporation incorporated under the laws of the State of Wisconsin with its principal place of business in the state of Wisconsin.

8. At all times material hereto, Defendant, Unimark Truck Transport, LLC, was and is a corporation incorporated under the laws of the State of Missouri with its principal place of business located in the State of Missouri.

9. Diversity of citizenship within the meaning of 28 U.S.C. § 1332 exists in this case since:

- (a) Plaintiff, Brian Allen, is a citizen and resident of the State of Tennessee;
- (b) Robert James Simmons, Jr. is not a citizen or resident of the State of Tennessee;
- (c) Defendant, JHT Holdings, Inc., is not a citizen or resident of the State of Tennessee;
- (d) Defendant, Unimark Truck Transport, LLC, is not a citizen or resident of the State of Tennessee;

10. Furthermore, diversity of citizenship existed at the time the action sought to be removed was commenced and continues through the time of filing of this notice, such that Defendants are entitled to removal pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 1446.

11. Additionally, jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332 since, based on Plaintiff's prayer for relief for "the sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00)," the amount in controversy exceeds the sum of \$75,000.00.

12. It has been less than thirty (30) days since Defendants were served with the Summonses and Complaint.

13. Defendants desire to remove the above-captioned action, now pending in the Circuit Court of Shelby County, Tennessee, to this Honorable Court pursuant to 28 U.S.C. § 1446.

WHEREFORE, Defendants, Robert James Simmons, JHT Holdings, Inc. and Unimark Truck Transport, LLC, pray that the above-captioned action, now pending in the Circuit Court Shelby County, Tennessee, be removed to this Honorable Court.

Respectfully submitted,

s/Lee L. Piovarcy

Lee L. Piovarcy (Tenn. Bar No. 8202)  
Samuel M. Fargotstein (Tenn. Bar No. 31115)  
MARTIN, TATE, MORROW & MARSTON, P.C.  
6410 Poplar Ave., Tower II, Suite 1000  
Memphis, TN 38119-4839  
(901) 522-9000  
(901) 527-3746 (Fax)  
[lpiovarcy@martintate.com](mailto:lpiovarcy@martintate.com)  
[sfargotstein@martintate.com](mailto:sfargotstein@martintate.com)

*Attorneys for Defendants*

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was served upon the below-listed counsel this 11th day of August, 2017, by first-class mail, postage prepaid to Louis P. Chiozza, Jr., Attorney for Plaintiff, 230 Adams Avenue, Memphis, TN 38103.

s/ Lee L. Piovarcy